IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.22247 of 2004

Between:

Vissamsetti Venkata Srinivas S/o.V.Kameswara Rao
D.No.6-7-38, Nehru Road,
Tenali, Guntur Dist.

..... PETITIONER

AND

1 The Commissioner of Tenali Municipality,
Tenali, Guntur Dist.
2 The Vice-Chairman, Vijayawada, Guntur,Tenali and Mangalarigi

Urban Development Authority, Vijayawada, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue Writ of Mandamus by declaring the action of the Respondents in demolishing the house property belonging to the petitioner bearing D.No.6-7-38, Nehru Road, Tenali, Guntur Dist, without issuing any notice, is arbitrary, un-reasonable and consequently direct the Respondents not to interfere with the peaceful possession and enjoyment of the petitioner's house property bearing D.No.6-7-38, Nehru Road, Tenali, Guntur Dist., without following due process of law.

Counsel for the Petitioner: MR.G.TUHIN KUMAR

Counsel for the Respondents: MR.SRINIVAS DAMMALAPATI

The Court at the admission stage made the following:

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ORDER:

By this writ petition the petitioner seeks to challenge the proposed action of the respondents in trying to demolish his house bearing D.No.6-7-38 situated at Nehru Road, Tenali, Guntur District, as illegal and violative of judgments of this Court.

The petitioner alleges that he is the owner of the property in question. The respondents came to the area where his house is situated in the 1st week of November, 2004 and markings were given from 10 feet to the main road for demolishing the houses for the purpose of road widening without following due process of law, and orally directed him and others to voluntarily leave the place, otherwise suitable action will be initiated in the 2nd week of December, 2004. The petitioner complained that the action of the respondents is contrary to the Division Bench Judgment of this Court rendered by their Lordships Honourable Sri Justice N.Y. Hanumanthappa and Honourable Sri Justice B.V. Ranga Raju in W.P. No.21198 of 1997 and Batch dated 3-2-1998. Assailing the impugned action of the respondents, the petitioner filed the present writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

The learned Standing Counsel for the respondents submitted that on apprehension only the petitioner filed the present writ petition, and that the respondents are following due process of law before acquiring any land or before demolishing any structures for the purpose of road widening.

The Division Bench dealing with large number of cases where for the purpose of road widening, the Revenue, Panchayat Raj and Municipal authorities sought to demolish the houses or structures abutting the road, issued certain guidelines which are as under:

1. Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

2. If the authorities concerned want to take action for

eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

3. In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

4. If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

5. In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

6. If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures.

Learned Standing Counsel appearing for the respondents, does not dispute the legal position.

Accordingly, the writ petition is disposed of directing the respondents to follow the guidelines issued in the above mentioned judgment. No costs.

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(N.V. RAMANA, J)

Date: 03-12-2004

Nsr/Tvk

To

1 The Commissioner of Tenali Municipality,
Tenali, Guntur Dist.
2 The Vice-Chairman, Vijayawada, Guntur,Tenali and Mangalarigi

Urban Development Authority, Vijayawada, Krishna District.

3 Two CD copies.